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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,190	02/24/2004	Stephan Durach	080437.53140US	1099
23911 7590 07/23/2008 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300				
EXAMINER				
TRAN, CON P				
ART UNIT		PAPER NUMBER		
2615				
MAIL DATE		DELIVERY MODE		
07/23/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/784,190

**Applicant(s)**

DURACH ET AL.

**Examiner**

CON P. TRAN

**Art Unit**

2615

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4-6 and 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/23/08 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-2, and 4-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed et al. U.S. Patent 6,553,296 (hereinafter, "Breed' 296") in view of Breed et al. U.S. Patent 6,778,672 (hereinafter, "Breed' 672"), and further in view of Haun et al. U.S. Patent 5,188,445 (hereinafter, Haun).

Regarding **claim 1**, Breed' 296 teaches method for controlling an acoustic system in a vehicle (see Figs. 1A, 2A, 2B, and respective portions of the specification), in which the interior is monitored by an interior sensing system (transmitter/receiver 110, 114, Fig. 1A; col. 16, lines 10-45), at least the position of an occupant's head in the interior is recognized by an object recognition system from the data supplied by the interior sensing system (col. 18, lines 14-30), a setting of the acoustic system that is optimized for the occupant is performed automatically (noise cancellation, col. 27, lines 40-65; col. 40, lines 63-67) by a control unit as a function of seat occupancy (col. 39, lines 15-22; col. 40, lines 5-13) and the position of the occupant's head in the interior (col. 18, lines 14-30; col. 40, lines 45-65), and independent active sites (noise cancellation, col. 40, lines 44-50, lines 63-67) for passenger (child, passengers; see Figs. 1A, 2A, 2B; col. 30, lines 33-4).

However, Breed' 296 does not explicitly disclose independent active sites with separate sound from independent sound sources are made available to different occupants at the same time.

Breed' 672 discloses methods and arrangements for controlling audio reception by occupants of a vehicle in which the position of any occupants is determined and the sound generating components of the entertainment system controlled based on the determined position of any occupants (col. 1, lines 39-44); appropriate sound waves can be generated and transmitted to the occupant to cancel the unwanted noise and thereby optimize the comfort of the occupant, i.e., the reception of the desired sound from the entertainment system (280, Fig. 5; col. 20, lines 25-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made, those of ordinary skill in the art when facing a design need of providing independent active sites with separate sound from independent sound sources are made available to different occupants at the same time would have recognized and would have modified methods and arrangements for controlling audio reception by occupants of a vehicle taught by Breed' 672 with the method for controlling an acoustic system in a vehicle of Breed' 296 to obtain the independent active sites as claimed for purpose of controlling an entertainment system as desired by the occupants, as suggested by Breed' 672 in column 6, lines 21-23.

Breed' 296, as modified, further teaches wherein active noise suppression is performed by the control unit so that the active site of the noise suppression follows an instantaneous position of the occupant's head (using several beam, fastest tracking, col. 37, lines 59-67; noise cancellation, col. 40, lines 44-50, lines 63-67); and Breed' 296, as modified, further teaches to cancel the unwanted noise presence, i.e., interior, see col. 20, lines 25-34).

However, Breed' 296 in view of Breed' 672 does not explicitly disclose sounds from the exterior of the vehicle can be piped in from the exterior through the acoustic system (i.e., including enclosure, body wall) of the vehicle.

Haun discloses an emergency response vehicle (col. 2, lines 20-21) in which the wall (62, Fig. 5) functions as a sound barrier to block the rearward propagation of the noise generated by the siren (38) into the engine compartment. The wall (62, Fig. 5) thus further reduces the noise level within the vehicle (10, Fig. 1) and allows a louder

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siren (38, Figs. 1, 5) to be utilized to warn of the approach of vehicle (10, Fig. 1) while still allowing the noise level in the vehicle (10, Fig. 1) to remain within acceptable limits (col. 5, lines 12-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made, those of ordinary skill in the art when facing a design need of providing sounds from the exterior of the vehicle can be piped in from the exterior through the acoustic system (including enclosure, body wall) of the vehicle would have recognized and would have implemented the wall that functions as a sound barrier taught by Haun with the method for controlling an acoustic system in a vehicle of Breed' 296 in view of Breed' 672 such that the acoustic system is capable of providing sounds from the exterior of the vehicle can be piped in from the exterior through the acoustic system of the vehicle into the interior of the vehicle as claimed for purpose of allowing the noise level in the vehicle to remain within acceptable limits (col. 5, lines 12-16) controlling an entertainment system as desired by the occupants, as suggested by Haun in column 5, lines 12-16.

Regarding **claim 2**, Breed' 296 in view of Breed' 672 teaches method as claimed in claim 1. Breed' 296, as modified, further teaches wherein the optimized setting of the acoustic system is performed by the control unit as a function of the position of the head of at least one of a plurality of occupants (child, passengers; see Breed' 296, Figs. 1A, 2A, 2B; col. 30, lines 33-4).

Regarding **claims 5-6**, these claims have similar limitations as Claims 1-2. Therefore, they are interpreted and rejected for the same reasons.

Regarding **claim 4**, Breed' 296 in view of Breed' 672 teaches method as claimed in claim 2. Breed' 296, as modified, further teaches wherein active noise suppression is performed by the control unit so that the active site of the noise suppression follows an instantaneous position of at least one of the heads of the plurality of occupants (child, passengers, see Figs. 1A, 2A, 2B; col. 30, lines 33-4; using several beam, fastest tracking, col. 37, lines 59-67; noise cancellation, col. 40, lines 44-50, lines 63-67).

Regarding **claims 7-8**, these claims have similar limitations as Claims 3-4. Therefore, they are interpreted and rejected for the same reasons.

### ***Response to Arguments***

4. Applicants' arguments with respect to claims 12, 4-6, and 8 have been considered but are moot in view of the new ground of rejection. It is noted that as presented above in the Office Action, the acoustic system including enclosure, body wall of the vehicle; the exterior sound can be piped in through the enclosure, the body wall of the vehicle into the interior of the vehicle.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Con P. Tran whose telephone number is (571) 272-7532. The examiner can normally be reached on M - F (8:30 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Vivian C. Chin can be reached on (571) 272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/CPT/  
July 22, 2008

/Vivian Chin/

Supervisory Patent Examiner, Art Unit 2615